

**BEFORE THE
POSTAL REGULATORY COMMISSION**

Periodic Reporting Rules

:

:

:

Docket No. RM2018-2

**COMMENTS OF UNITED PARCEL SERVICE, INC. ON NOTICE
OF PROPOSED RULEMAKING TO REVISE THE PERIODIC
REPORTING REQUIREMENTS
(August 17, 2018)**

TABLE OF CONTENTS

ARGUMENT	1
I. UPS SUPPORTS ALIGNING POSTAL SERVICE REPORTING DEADLINES	1
II. UPS URGES A SMOOTH TRANSITION TO THE MODIFIED MONTHLY SUMMARY FINANCIAL REPORT	2
III. UPS SUPPORTS THE PROPOSED ADDITIONAL REPORTING REQUIREMENTS	5
IV. UPS REITERATES ITS REQUEST FOR SEGMENT-LEVEL REPORTING FOR ALL COMPETITIVE PRODUCTS	8
CONCLUSION	9

United Parcel Service, Inc. (“UPS”) respectfully submits these comments in response to the Postal Regulatory Commission’s Notice of Proposed Rulemaking to Revise the Periodic Reporting Requirements (July 12, 2018) (“Order No. 4706”).

This docket involves proposed changes to the Postal Service’s periodic reporting requirements codified in 39 C.F.R. § 3050. Broadly, the Commission’s proposals cover three categories: (1) adjustment of certain deadlines for periodic reports, (2) modifications to the format of the Monthly Summary Financial Report, and (3) new categories of data that the Postal Service must provide in its section 3652 report.¹ UPS generally supports the proposed changes, and urges the Commission to continue to promote rules that encourage greater transparency and more accurate data.

ARGUMENT

I. UPS SUPPORTS ALIGNING POSTAL SERVICE REPORTING DEADLINES

The Commission’s first group of proposed changes would adjust certain deadlines for several periodic reports, including the quarterly Revenue, Pieces, and Weight (“RPW”) report; the Quarterly Statistics Report (“QSR”); the quarterly Billing Determinants reports; and the monthly National Consolidated Trial Balance and the Revenue and Expense Summary (“Trial Balance”) report. The Postal Service asked to adjust the deadlines for these reports in order to align them with other financial reporting deadlines.² The Commission agreed and proposed moving these deadlines in order to

¹ The Commission also proposes to revise § 3050.60(c) to require only an electronic copy of revised publications and handbooks. Currently, § 3050.60 requires the Postal Service to provide the revised publications and handbooks “in hard copy form, and in electronic form, if available.” 39 C.F.R. § 3050.60(c). UPS has no objection to this proposal.

² United States Postal Service Petition for Rulemaking on Periodic Reporting, Dkt. No. RM2018-2 (Dec. 27, 2017) (“Petition”), at 2–6.

“create more streamlined reporting” and facilitate “timely and accurate financial reports.”³ In response to the comments of the Public Representative,⁴ the Commission also proposes revising § 3050.28(b) to clarify that the Monthly Summary Financial Report for the final month of Quarter 4 should align with the filing of the Form 10-K report.⁵

UPS has previously stated that it supports aligning the Postal Service reporting deadlines as long as they do not unduly delay periodic reporting.⁶ UPS therefore supports the Commission’s proposed modifications to these reporting deadlines. UPS believes there is merit in aligning the release of periodic reports and that the short delay in the release of the reporting data will not compromise the principles of transparency or the public interest. Furthermore, the proposed timeframes are reasonable, not substantially beyond those imposed on SEC-traded companies in the delivery sector, and likely to facilitate the provision of more accurate data by relieving the reporting burden on the Postal Service.

II. UPS URGES A SMOOTH TRANSITION TO THE MODIFIED MONTHLY SUMMARY FINANCIAL REPORT

The Commission’s second group of proposed changes would modify the format of the Monthly Summary Financial Report. Some of these changes are cosmetic, while others are substantive. In its Petition, the Postal Service requested various

³ Order No. 4706, at 8.

⁴ Public Representative Comments on Advance Notice of Proposed Rulemaking to Revise Periodic Reporting Requirements, March 7, 2018, at 5–6.

⁵ Order No. 4706, at 9–10.

⁶ Comments of United Parcel Service, Inc. on Advance Notice of Proposed Rulemaking to Revise Periodic Reporting Requirements, Dkt. No. RM2018-2 (Mar. 7, 2018) (“UPS Comments”), at 4.

modifications to the format of the monthly financial report to make the report more consistent with the Postal Service's quarterly and annual financial reports.⁷ The Commission proposes modifications largely in line with those requested by the Postal Service. Specifically, the Commission proposes modifying the format of Table 1 at § 3050.28(b)(1) by (1) changing the input "Total Operating Revenue" to "Total Revenue"; (2) deleting the "Operating Revenue" component inputs "Mail and Services Revenue" and "Government Appropriations"; and (3) adding a new "Revenue" heading that holds the inputs for "Operating Revenue" and "Other Revenue," which added together will constitute the new "Total Revenue."⁸ The Commission also proposes modifying the format of Table 2 by (1) changing the name of the "Standard Mail" input to "USPS Marketing Mail"; (2) removing the "Total All Mail" input and its components; and (3) adding distinct inputs for "Total Volume" and "Total Operating Revenue," the latter of which will match Table 1's proposed "Operating Revenue."⁹

UPS has requested that any substantive modifications to the monthly financial report be accompanied by a requirement that the Postal Service either (1) reproduce figures in past monthly reports using the new proposed definitions or (2) produce monthly reports with both the old and new versions of the affected tables for the first 12 months after adopting any new definition.¹⁰ The Commission did not include any such requirement in its proposals, stating that the more granular line items that will be

⁷ Petition at 6–8.

⁸ Order No. 4706, at 11.

⁹ *Id.* at 12. Note that the Postal Service's Monthly Summary Financial Report already refers to Standard Mail as "USPS Marketing Mail." See, e.g., "USPS Preliminary Financial Information (Unaudited), June 2018," <https://www.prc.gov/dockets/document/106127>, at 2.

¹⁰ UPS Comments at 6.

removed from Table 1 remain available from other reports.¹¹ While UPS has confirmed the availability of the “Government Appropriations” amount in other sources, it is not clear whether monthly totals corresponding to “Mail and Service Revenue” as reported in the current monthly financial report are available from other public sources. UPS therefore respectfully reiterates this request, because without a device to directly compare the old and new monthly reports, it will be difficult for the Commission and interested parties to compare certain data across different time periods, and the information available to the public will thereby necessarily be obscured.

Given the importance of transparency in Postal Service accounting, the negligible burden on the Postal Service of reproducing figures in past monthly reports or creating two versions of the affected tables for the next 12 months is far outweighed by the utility of having such a requirement. If, however, the Commission considers requiring the Postal Service to produce two versions of the affected tables for 12 months to be too burdensome, the Commission could require the Postal Service to produce two versions of the affected tables for just six months. Such a requirement would further mitigate the already minimal burden on the Postal Service while still allowing an opportunity (albeit a more limited one) for direct comparison of the information reported in the tables.

UPS further notes that Table 2 of the current monthly financial reports filed by the Postal Service follows a format that differs slightly from that which is currently prescribed in 29 C.F.R. § 3050.28(b)(1), which the Postal Service acknowledged in its

¹¹ See Order No. 4706, at 11–12.

Petition.¹² Precise compliance with the format for Table 2 as shown in pages 24–25 of Order No. 4706 would thus introduce additional changes in reporting practice relative to the status quo, far exceeding those outlined by the order. UPS urges the Commission to confirm in its final order that the only permitted departures from the current de facto reporting format of Table 2 are those described in Section IV.C.2 of Order No. 4706. Alternatively, UPS urges the Commission to require the Postal Service to take steps similar to those outlined above in the event of any future changes to the reporting format of any of the tables in the monthly financial reports: either (1) reproduce figures in past monthly reports using the new proposed definitions, or (2) produce monthly reports with both the old and new versions of the affected tables for the first 12 months after adopting any new definition.

III. UPS SUPPORTS THE PROPOSED ADDITIONAL REPORTING REQUIREMENTS

The Commission’s third group of proposed changes consists of a number of new data reporting requirements.¹³ UPS supports the Commission’s efforts to collect more detailed financial information, which will increase transparency and give the Commission more of the data it needs to assess the Postal Service’s compliance with

¹² Compare 39 C.F.R. § 3050.28(b)(1), with “USPS Preliminary Financial Information (Unaudited), June 2018,” filed on Aug. 9, 2018, <https://www.prc.gov/dockets/document/106127>. For example, the regulations require “All Other Market Dominant Mail,” which the Postal Service provides only as part of “Total Mail.” In its Petition, the Postal Service noted that it “is currently providing more detailed information in its monthly reporting than is required by the rule.” Petition at 6.

¹³ Order No. 4706, at 13–19.

its various statutory and regulatory obligations. Specifically, the Commission proposes to add certain information to the required content of the Postal Service's § 3652 report.¹⁴

First, the Commission proposes requiring that, for each market-dominant negotiated service agreement ("NSA"), the Postal Service provide financial or other supporting documentation demonstrating that non-compensatory market-dominant NSAs—that is, market-dominant NSAs whose revenue does not cover their costs—improve the net financial position of the Postal Service over default rates or enhance the performance of mail preparation, processing, transportation, or other functions.¹⁵ UPS supports this proposal, which will help the Commission and interested parties analyze whether the Postal Service is complying with its statutory obligation to improve its net financial position through agreements with postal users.¹⁶

Second, the Commission proposes a new requirement that the Postal Service provide a distribution breakdown of mail fees paid by customers for market-dominant and competitive products, including all underlying calculations and source workpapers.¹⁷ UPS supports this proposal as well. Although some of the material submitted under this new requirement may be nonpublic, the data will still be useful to the Commission's assessment of compliance with applicable provisions of chapter 36 of Title 39 or related regulations.

¹⁴ The report's current contents are set out at 39 C.F.R. § 3050.21(b)–(j). The Commission proposes that the catchall requirement currently at § 3050.21(j) be moved to § 3050.21(n), the end of the proposed list. UPS has no objection to that proposal.

¹⁵ Order No. 4706, at 13–14, Proposed Section 3050.21(f)(6).

¹⁶ 39 C.F.R. § 3622(c)(10).

¹⁷ Order No. 4706, at 14, Proposed Section 3050.21(j); *see also* Responses of the United States Postal Service to Questions 1–3 of Chairman's Information Request No. 7, Dkt. No. ACR2017 (Jan. 30, 2018), at Q3.

Third, the Commission proposes requiring that the Postal Service provide any third-party service performance results where a financial penalty or bonus is applied, and to provide the amount of any forfeited revenue.¹⁸ The Commission specifies that this proposed requirement will apply to all market-dominant and competitive products, including NSAs.¹⁹ UPS supports this proposal. Forfeited revenue for Inbound Letter Post is a persistent concern for the Commission,²⁰ and the provision of this data will facilitate the Commission's continuing assessment of it.

Fourth, the Commission proposes a requirement that the Postal Service provide all total workhour data and data sources, showing workhour measurements by Labor Distribution Code ("LDC").²¹ UPS supports this proposal, but cautions that there are open questions about the reliability and accuracy of the Postal Service's Time and Attendance Collection System ("TACS"). The Office of Inspector General and the Commission have both noted problems with the reliability and accuracy of TACS data and LDC workhour data.²² UPS believes collecting the workhour data as proposed will be useful, but encourages the Commission to consider ways in which the Postal Service could enhance the reliability and accuracy of this data and therefore its usefulness to the Commission and the public.

¹⁸ Order No. 4706, at 14–15, Proposed § 3050.21(k).

¹⁹ *Id.* at 15.

²⁰ *See, e.g.*, FY 2017 ACD at 70–71; FY 2016 ACD at 67–68.

²¹ Order No. 4706, at 15–16, Proposed § 3050.21(l).

²² *See* Office of Inspector General, *Delivery Charge Codes*, Report No. CP-AR-18-002 (Jan. 19, 2018) at 1; Order on Analytical Principles Used in Periodic Reporting (Proposal Five), Dkt. No. RM2017-9 (Feb. 6, 2018), at 12–18.

Finally, the Commission proposes a new requirement that the Postal Service provide Inbound Letter Post revenue, volume, attributable cost, and contribution data by Universal Postal Union (“UPU”) country group and by shape for the preceding five fiscal years.²³ UPS supports this proposal. This information is vital for the Commission’s assessment of the Inbound Letter Post product, which the Commission has noted is subsidized by domestic mailers.²⁴ UPS urges the Commission to clarify that the Postal Service should report this data in a public filing or library reference. The Commission has proposed this new requirement partly in response to the concerns expressed by the public.²⁵ Requiring this data to be reported publicly will help address those concerns and will ensure transparency.

IV. UPS REITERATES ITS REQUEST FOR SEGMENT-LEVEL REPORTING FOR ALL COMPETITIVE PRODUCTS

The Commission has declined to adopt UPS’s request to require segment-level reporting for competitive products on the grounds that “the current approach of reporting as a single segment is adequate for the purposes of determining compliance,” and because it “does not find that the practice of reporting as a single segment is inadequate or in need of substantial improvement.”²⁶ UPS nonetheless reiterates that segment-level reporting would promote transparency and represent an improvement over the status quo,²⁷ and respectfully urges the Commission to reconsider its position.

²³ Order No. 4706, at 16–17, Proposed § 3050.21(m).

²⁴ FY 2017 ACD at 68.

²⁵ Order No. 4706, at 18 & n.35.

²⁶ *Id.* at 12–13.

²⁷ UPS Comments at 7–10.

CONCLUSION

For the foregoing reasons, UPS supports many of the Commission's proposals. UPS believes the Commission could improve upon its proposals further by taking additional measures to increase transparency and facilitate public access, as detailed above, but applauds the Commission's call for more detailed data in the key areas it has identified.

Respectfully submitted,

UNITED PARCEL SERVICE, INC.,

By /s/ Steig D. Olson

Steig D. Olson
Christopher M. Seck
David LeRay
Andrew Sutton
Quinn Emanuel Urquhart &
Sullivan, LLP
51 Madison Ave., 22nd Floor
New York, NY 10010
(212) 849-7152
steigolson@quinnemanuel.com
christopherseck@quinnemanuel.com
davidleray@quinnemanuel.com
andrewsutton@quinnemanuel.com

Attorneys for UPS